

Message Text

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PAGE 01 STATE 012346
ORIGIN OES-06

INFO OCT-01 EUR-12 ISO-00 L-03 PM-04 ACDA-07 SS-15 ERDA-05
NRC-05 XMB-02 DODE-00 TRSE-00 OMB-01 AID-05 COME-00
FEA-01 CIAE-00 INR-07 IO-13 NSAE-00 NSC-05 EB-07 /099 R

DRAFTED BY OES/NET/RD:JACOON:LL
APPROVED BY OES/NET:HDBENGELSDORF
L/OES - MR. SIEGAL
EUR/RPE - MR. SENS
PM/NPO - MR. OPLINGER
ACDA - MR. VAN DOREN
C - MR. FUERTH
ERDA - MR. SLAWSON
EUR/WE - MR. DURKEE
S/S-O:LRMACFARLANE
-----190420Z 088940 /72-62
P 190212Z JAN 77
FM SECSTATE WASHDC
TO AMEMBASSY MADRID PRIORITY

C O N F I D E N T I A L STATE 012346

E.O. 11652:GDS

TAGS: TECH, ENRG, SP

SUBJECT:U.S.-SPANISH NUCLEAR COOPERATION

REF: (A) MADRID 9444 (B) STATE 271029
(C) STATE 290024 (D) STATE 307448

1. OUR IMMEDIATE OBJECTIVE REMAINS THAT OF FINDING,WITH-
IN THE EVOLVING FRAMEWORK OF U.S. NON-PROLIFERATION
POLICY, THE MOST EXPEDITIOUS AND MUTUALLY ACCEPTABLE
MEANS OF OBTAINING NECESSARY GOS ASSURANCES ON REPROCESSING
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IN ORDER TO FACILITATE EXIM BANK LOANS AND NRC LICENSING
OF SPANISH CASE BACKLOG. HOWEVER, AND IN ADDITION, NRC
HAS PROPOSED THAT THE DEPARTMENT SEEK WRITTEN ACKNOWLEDG-
MENT THAT GOS ACCEPTS CONDITIONS OF U.S. NOTE OF MARCH 20,
1974, ATTACHED TO U.S.-SPANISH BILATERAL AGREEMENT OF
COOPERATION SIGNED ON SAME DATE. THIS NOTE AFFIRMS U.S.
POSITION THAT MATERIAL SUBJECT TO THIS AGREEMENT CANNOT

BE USED FOR ANY EXPLOSIVE DEVICE -- THE SO-CALLED "NO-PNE" PROVISION.

2. WE HAVE REVIEWED SPANISH RESPONSES TO OUR SUGGESTED APPROACH ON REPROCESSING AND CONCLUDED THAT GOS SUGGESTION OF A PROTOCOL PROVIDING REPROCESSING ASSURANCES WOULD BE ACCEPTABLE ROUTE IF IT WERE DRAFTED IN SUCH A WAY THAT U.S. WOULD NOT BE REQUIRED TO TREAT IT AS AN AMENDMENT TO AGREEMENT UNDER U.S. LAW, EVEN THOUGH SPANISH SO REGARD IT AND TREAT IT UNDER THEIR LAW. OTHER FORMATS, E.G., NOTE VERBALE, WOULD ALSO BE ACCEPTABLE PROVIDED THEY DO NOT HAVE APPEARANCE OF AMENDMENT TO AGREEMENT. TO MEET THIS REQUIREMENT, TITLE OF PROTOCOL AND CONTENT SHOULD NOT REFER TO IT AS AMENDING BILATERAL AGREEMENT OF COOPERATION.

3. AN AMENDMENT TO A BILATERAL AGREEMENT IS A VERY TIME-CONSUMING EXERCISE AND INVOLVES PRESIDENTIAL APPROVAL OF ANY AMENDED AGREEMENT AND A 60-DAY LEGISLATIVE REVIEW PERIOD BY CONGRESS. IN ADDITION, THE AMENDMENT PROCESS COULD INVOLVE LENGTHY DELAYS PRIOR TO SUBMISSION TO CONGRESS WHICH WE BELIEVE WOULD BE PREJUDICIAL TO OUR MUTUAL INTERESTS. BOTH EXTENSION OF EXIM CREDITS AND EXPORT LICENSING BY NRC ON THE PENDING SPANISH CASES WILL PROBABLY BE HELD IN ABEYANCE PENDING RESOLUTION OF THIS ISSUE.

4. IN ORDER TO MEET REQUIREMENT OF NOT BEING REGARDED AS AMENDMENT UNDER U.S. LAW, IT IS ESSENTIAL THAT, REGARD-
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LESS OF FORM OF UNDERSTANDING, IT INVOLVES NO NEW U.S. OBLIGATION. FOR THIS REASON AS WELL AS REASONS OF OVERALL POLICY, IT IS OUT OF QUESTION THAT DOCUMENT OBLIGATE THE U.S. TO ACCEPT FINANCIAL RESPONSIBILITIES FOR REPROCESSING DELAYS.

5. WITH RESPECT TO WRITTEN GOS ACCEPTANCE OF OUR "NO-PNE" NOTE, WE ARE FLEXIBLE ON BEST MEANS OF ACHIEVING THIS. IT COULD BE INCLUDED IN PROTOCOL OR NOTE VERBALE OR IN SEPARATE INSTRUMENT SUCH AS A NOTE.

6. EMBASSY IS ALSO AWARE, AS NOTED IN REF B, PARA 2, THAT USG AT LATER DATE WILL BE RAISING WITH GOS AND OTHER COUNTRIES WITH WHOM WE HAVE BILATERALS MORE COMPREHENSIVE MODIFICATIONS IN BILATERALS CONSISTENT WITH PRESIDENT'S OCTOBER 28 STATEMENT AND VIEWS OF NEW ADMINISTRATION. CONSEQUENTLY, WE SEE CONSIDERABLE ADVANTAGE IN KEEPING ARRANGEMENTS FOR THESE REPROCESSING ASSURANCES AS SIMPLE AND LOW-KEY AS POSSIBLE.

7. TURNING TO SCOPE, AS CONTRASTED WITH FORM, OF NEW ASSURANCES, WE WOULD CLEARLY PREFER ACROSS-THE-BOARD APPROACH WHICH WOULD PROVIDE ASSURANCES ON BOTH PRESENT AND FUTURE REACTORS, TO AD HOC, REACTOR BY REACTOR, ASSURANCES AS DISCUSSED WITH PASCUAL. HOWEVER, WE ARE STILL WILLING TO GO FORWARD ON REACTOR BY REACTOR BASIS IF THIS IS THE ONLY ARRANGEMENT ACCEPTABLE TO GOS. SUCH

ASSURANCES COULD TAKE FORM OF NOTE FROM GOS PRIOR TO REACTOR EXPORT LICENSE OR A SINGLE NOTE OR PROTOCOL STATING THAT EACH REACTOR EXPORTED HEREAFTER WILL BE SUBJECT TO SAME ASSURANCES.

8. DEPARTMENT REQUESTS EMBASSY VIEWS, IN LIGHT OF FOREGOING, ON BEST MEANS OF OBTAINING GOS REPROCESSING ASSURANCES AND "NO-PNE" WRITTEN ACKNOWLEDGMENT BY GOS. CONFIDENTIAL

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Message Attributes

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Control Number: n/a
Copy: SINGLE
Sent Date: 19-Jan-1977 12:00:00 am
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Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
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Drafter: JACOON:LL
Enclosure: n/a
Executive Order: GS
Errors: N/A
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